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MONTANA LEGISLATIVE HISTORY

Chapter 219 19 91

Bill H 118 S _____ Original bill & history ____C

H. Committee on Human Services & Aging		S. Committee on Public Health Welfare & Safety	
Hearing Date(s) Jan 14	✓C	Hearing Date(s) Jan 30	✓C
_____	____C	Mar 06	✓C
_____	____C	_____	____C
_____	____C	_____	____C
Date Out Jan 15	✓C	Mar 06	✓C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

3/04	FIRST READING		
3/11	HEARING		
3/26	COMMITTEE REPORT—BILL CONCURRED		
3/28	2ND READING CONCURRED	29	17
4/01	3RD READING CONCURRED	26	24
	RETURNED TO HOUSE		
4/03	SIGNED BY SPEAKER		
4/03	SIGNED BY PRESIDENT		
4/04	TRANSMITTED TO GOVERNOR		
4/08	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 385	EFFECTIVE DATE: 7/01/91	

HB 117 INTRODUCED BY J. BROWN

FUNERAL PROCESSION'S RIGHT-OF-WAY THROUGH STREET AND HIGHWAY INTERSECTIONS

1/08	INTRODUCED		
1/08	REFERRED TO HIGHWAYS & TRANSPORTATION		
1/09	FIRST READING		
1/24	HEARING		
2/07	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/09	2ND READING PASSED	88	5
2/12	3RD READING PASSED	95	1
	TRANSMITTED TO SENATE		
2/13	FIRST READING		
2/13	REFERRED TO HIGHWAYS & TRANSPORTATION		
3/19	HEARING		
3/20	COMMITTEE REPORT—BILL CONCURRED		
3/23	2ND READING CONCURRED	48	0
3/25	3RD READING CONCURRED	47	0
	RETURNED TO HOUSE		
4/02	SIGNED BY SPEAKER		
4/02	SIGNED BY PRESIDENT		
4/02	TRANSMITTED TO GOVERNOR		
4/04	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 338	EFFECTIVE DATE: 10/01/91	

HB 118 INTRODUCED BY J. BROWN

ALLOW PHARMACISTS TO USE PHARMACY TECHNICIANS OR AUXILIARY

1/08	INTRODUCED		
1/08	REFERRED TO HUMAN SERVICES & AGING		
1/09	FIRST READING		
1/09	FISCAL NOTE REQUESTED		
1/14	HEARING		
1/14	FISCAL NOTE RECEIVED		
1/15	FISCAL NOTE PRINTED		
1/15	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/16	REVISED FISCAL NOTE REQUESTED		
1/16	REVISED FISCAL NOTE RECEIVED		
1/17	2ND READING PASSED AS AMENDED	96	3
1/18	REVISED FISCAL NOTE PRINTED		
1/19	3RD READING PASSED	91	3
	TRANSMITTED TO SENATE		
1/21	FIRST READING		
1/21	REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY		
1/30	HEARING		
3/07	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/09	2ND READING CONCURRED	48	0
3/11	3RD READING CONCURRED	48	1
	RETURNED TO HOUSE WITH AMENDMENTS		
3/16	2ND READING AMENDMENTS CONCURRED	88	0

3/18	3RD READING AMENDMENTS CONCURRED	97	1
3/22	SIGNED BY SPEAKER		
3/23	SIGNED BY PRESIDENT		
3/25	TRANSMITTED TO GOVERNOR		
3/29	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 219		
	EFFECTIVE DATE: 01/01/92 - SECTIONS 1-6		
	EFFECTIVE DATE: 03/29/91 - SECTIONS 7, 8		

HB 119 INTRODUCED BY REAM, ET AL.
ALLOW CREATION OF SID TO ACQUIRE PARK LAND

1/08	INTRODUCED		
1/08	REFERRED TO LOCAL GOVERNMENT		
1/09	FIRST READING		
1/17	HEARING		
1/18	COMMITTEE REPORT—BILL PASSED		
1/22	2ND READING PASSED	87	9
1/24	3RD READING PASSED	84	14
	TRANSMITTED TO SENATE		
1/25	FIRST READING		
1/25	REFERRED TO LOCAL GOVERNMENT		
2/07	HEARING		
2/15	COMMITTEE REPORT—BILL CONCURRED		
2/16	2ND READING CONCURRED	28	21
2/18	3RD READING CONCURRED	30	19
	RETURNED TO HOUSE		
2/21	SIGNED BY SPEAKER		
2/21	SIGNED BY PRESIDENT		
2/21	TRANSMITTED TO GOVERNOR		
2/26	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 54	EFFECTIVE DATE: 10/01/91	

HB 120 INTRODUCED BY HAYNE, ET AL.
CREATE FARM ANIMAL AND RESEARCH FACILITY PROTECTION ACT

1/08	INTRODUCED		
1/08	REFERRED TO JUDICIARY		
1/09	FIRST READING		
1/16	HEARING		
1/16	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/22	2ND READING PASSED	54	45
1/24	3RD READING PASSED	57	43
	TRANSMITTED TO SENATE		
1/25	FIRST READING		
1/25	REFERRED TO AGRICULTURE, LIVESTOCK & IRRIG.		
2/11	HEARING		
3/07	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/11	2ND READING CONCURRED AS AMENDED	40	7
3/12	3RD READING CONCURRED	47	2
	RETURNED TO HOUSE WITH AMENDMENTS		
3/16	2ND READING AMENDMENTS CONCURRED	64	30
3/18	3RD READING AMENDMENTS CONCURRED	74	23
3/22	SIGNED BY SPEAKER		
3/22	SIGNED BY PRESIDENT		
3/23	TRANSMITTED TO GOVERNOR		
3/27	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 205	EFFECTIVE DATE: 3/27/91	

HB 121 INTRODUCED BY COBB, ET AL.
REPEAL LAWS ON STATE STORE LICENSES

1/08	INTRODUCED		

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0118, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:
An act allowing a licensed pharmacist to use the services of a pharmacy technician under the terms of an approved utilization plan; providing for training of pharmacy technicians; providing for fees and penalties; and providing effective dates.

ASSUMPTIONS:
1. The Board of Pharmacy will approve utilization plans for pharmacy technicians.
2. If each of the 650 licensed pharmacists practicing in Montana submit two utilization plans, the department will screen, review and process 1,300 plans per year.
3. An additional two board members will increase the board to five members. Board members are compensated $50 per day plus travel cost. Total travel cost for the entire board is approximately $665 per meeting.
4. A screening committee of two board members will meet eight hours per year at a cost of $50 per day plus travel.
5. Statute implementation will require three pages of rules at a cost of $70 per page.
6. Additional cost incurred by the Board of Pharmacy will increase the board's administrative overhead cost of 8.77%.
7. The Professional and Occupational Licensing Bureau will need an additional .25 FTE plus operating costs and equipment for the workload increase.
8. Current law is represented by the executive budget recommendation for the Professional and Occupational Licensing Bureau of the Department of Commerce.

FISCAL IMPACT:

POL Bureau	FY 92			FY 93		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Expenditures:						
FTE	25.43	25.68	.25	25.43	25.68	.25
Personal Services	665,467	669,906	4,439	664,766	669,295	4,529
Operating Costs	184,593	186,262	1,669	177,083	178,352	1,269
Equipment	5,409	7,809	2,400	5,409	5,409	0
Total	855,469	863,977	8,508	847,258	853,056	5,798
Funding:						
Proprietary Fund	855,469	863,977	8,508	847,258	853,056	5,798
Revenue:						
License Fees (02)	135,809	148,809	13,000	135,210	143,010	7,800

1-12-91
ROD SUNDSTED, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

1/14/91
JAN BROWN, PRIMARY SPONSOR DATE

Fiscal Note for HB0118, as introduced. HB 118

In compliance with a written request, there is hereby submitted a revised Fiscal Note for HB0118, second reading.

DESCRIPTION OF PROPOSED LEGISLATION:

An act allowing a licensed pharmacist to use the services of a pharmacy technician under the terms of an approved utilization plan; providing for training of pharmacy technicians; providing for fees, penalties, and effective dates.

ASSUMPTIONS:

1. The Board of Pharmacy will approve utilization plans for pharmacy technicians.
2. Each of the 650 licensed pharmacists practicing in Montana will submit two utilization plans, which will produce approximately 1,300 plans initially and each year thereafter for review and processing.
3. The Board of Pharmacy currently consists of five members. Personal services per diem increases because two board members will serve on a screening committee and because there will be at least two additional board meetings in the implementing year, with compensation of $50 per day for the board members.
4. Operating costs increases include three pages of rules at a cost of $210, board travel of $665 per meeting, printing of application and license forms and postage of about $575.
5. The Professional and Occupational Licensing Bureau (POL) overhead and supportive services charges will increase as a result of the additional workload, which will require 0.25 FTE added to the bureau. The board has increased authority to pay for these supportive services in the proposed law operating costs listed below and it also will be necessary for the bureau to have increased spending authority.
6. Current law is represented by the executive budget recommendation for the Board of Pharmacy located within the Department of Commerce.

FISCAL IMPACT:

Board of Pharmacy

	FY 92			FY 93		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Expenditures:						
FTE	1.00	1.00	0.00	1.00	1.00	0.00
Personal Services	47,111	47,861	750	47,007	47,257	250
Operating Costs	89,296	100,907	11,611	88,785	96,102	7,317
Total	136,407	148,768	12,361	135,792	143,859	7,567
Funding:						
State Special Revenue	136,407	148,768	12,361	135,792	143,859	7,567
Revenue:						
License Fees (02)	135,809	148,809	13,000	135,210	143,010	7,800

Rod Sundsted 1-16-91

ROD SUNDSTED BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Jan Brown

JAN BROWN PRIMARY SPONSOR DATE

Revised Fiscal Note for HB0118, second reading

HB 118 Rev

REP. STICKNEY asked if there is new money or is this a never ending thing. Ms. Robinson stated that this is one reason the set provision would allow some monitoring to see if that would happen.

REP. MESSMORE asked what is the threat regarding the lawsuit. Ms. Robinson stated that this amendment allows nursing home providers to ask for what they believe is reasonable and cost effective. States have lost previous lawsuits over the legality of legislation similar to the proposed fee.

REP. S. RICE asked if anything in the bill would prevent the nursing home from assessing the utilization fee to private pay patients based on the patients ability to pay. Ms. Hughes stated that the amendment addresses what the facility can or cannot pass on.

Closing by Sponsor: REP. COBB closed the hearing on HB 93.

HEARING ON HB 118

Presentation and Opening Statement by Sponsor:

REP. JAN BROWN, House District 46, Helena stated that HB 118 would allow a licensed pharmacist to use a pharmacy technician to perform certain tasks that would not involve the pharmacist's judgment. They must be tasks the pharmacist can verify. Many pharmacists use technicians to free themselves to perform the important functions of patient education and counseling. As more drugs become available, pharmacists need to spend more time with the patient explaining drug interaction and other effects.

Proponents' Testimony:

Dave Runkel, Montana State Pharmacist Association, stated his support and submitted written testimony. EXHIBIT 8

Ann Gidel, Registered Pharmacist in Helena, stated her support and submitted written testimony. EXHIBIT 9

Dennis Yost, Registered Pharmacist in Helena, stated that HB 118 would change household pharmacy practice in the state. HB 118 would allow pharmacists to redirect their resources into areas that give more clinical benefits to the patient without a loss of quality.

Dee Dee Cress, Pharmacist, spoke in support of HB 118.

Donna Nopp, Pharmacy Technician, stated her support and submitted written testimony. EXHIBIT 10

Lori FitzGerald, Pharmacist Fort Harrison Veterans Administration Medical Center, stated her support and submitted written

testimony. EXHIBIT 11

John Woon, President Montana State Hospital Pharmacists, stated that as the health field changes, the well being of the patient is a major concern of pharmacists.

Jim Ahrens, President, Montana Hospital Association, stated his support.

Mark Eichler, Vice President, Montana Clinical Association of Registered Pharmacist in Helena, stated that HB 118 represents a significant step for pharmacists and the health care system in Montana. It will allow pharmacists freedom from the technical aspects of the retail setting and allow more time to discuss with patients how to take medications. Proper safeguards and guidelines are in place to verify the technical aspects.

Mary McCue, Montana State Pharmacist Association, stated that section 1 defines a pharmacy technician as a person who simply helps the pharmacist. The more significant definition is the one in the utilization plan which makes it clear that the pharmacy technician can only perform tasks that don't require the pharmacists independent judgment and are verified by the pharmacist. Section 3 sets the requirement for the technicians. It is contemplated that the pharmacists will prepare this detailed utilization plan in the pharmacy and then submit it to the board or its designee. Section 5 addresses training of the technician. The pharmacist is responsible for providing training. This training will be uniform. The statement of intent reads that the board is to prescribe the specific functions a technician may perform.

Charles Brooks, Executive Vice President, Montana Retail Association, favors HB 118.

Questions From Committee Members: None

Closing by Sponsor: REP. JAN BROWN closed on HB 118.

EXECUTIVE ACTION ON HB 118

Motion: REP. SQUIRES MOVED HB 118 DO PASS.

Discussion:

REP. BROWN stated there are amendments to HB 118 and one is not prepared.

REP. SQUIRES WITHDREW her motion.

Ms. McCue stated that in the statement of intent it is contemplated that each pharmacist may use one technician when they are performing certain tasks, but no more than two

technicians at a time are to be used overall. It is contemplated that all 650 pharmacists will use at least one technician. The plan describes how each pharmacist may use one or two technicians. If this is a problem of clarity, insert the word technicians on page 8, line 18.

Motion/Vote: REP. BROWN moved to adopt amendments to HB 118. Motion carried unanimously.

Motion/Vote: REP. BROWN MOVED HB 118 DO PASS AS AMENDED. Motion passed unanimously.

ADJOURNMENT

Adjournment: 5:40 p.m.

Angela Russell
REP. ANGELA RUSSELL, Chair

Jeanne Krumm
Jeanne Krumm, Secretary

AR/jck

HOUSE OF REPRESENTATIVES

HUMAN SERVICES AND AGING COMMITTEE

ROLL CALL DATE 1-14-91

NAME	PRESENT	ABSENT	EXCUSED
REP. ANGELA RUSSELL, CHAIR	✓		
REP. TIM WHALEN, VICE-CHAIR	✓		
REP. ARLENE BECKER	✓		
REP. WILLIAM BOHARSKI	✓		
REP. JAN BROWN	✓		
REP. BRENT CROMLEY	✓		
REP. TIM DOWELL	✓		
REP. PATRICK GALVIN	✓		
REP. STELLA JEAN HANSEN	✓		
REP. ROYAL JOHNSON	✓		
REP. BETTY LOU KASTEN	✓		
REP. THOMAS LEE	✓		
REP. CHARLOTTE MESSMORE	✓		
REP. JIM RICE	✓		
REP. SHEILA RICE	✓		
REP. WILBUR SPRING	✓		
REP. CAROLYN SQUIRES	✓		
REP. JESSICA STICKNEY	✓		
REP. BILL STRIZICH	✓		
REP. ROLPH TUNBY	✓		

CS05HUMSER.MAN

HOUSE STANDING COMMITTEE REPORT

January 15, 1991

Mr. Speaker: We, the committee on Human Services and Aging report that House Bill 118 (first reading copy -- white) do pass as amended .

Signed: _____
Angela Russell, Chairman

And, that such amendments read:

1. Page 6, line 21.
Strike: "verifiable"
Insert: "verified"

2. Page 8, line 18.
Following: "technician"
Insert: "or technicians"

3. Page 9, line 4.
Following: "board"
Insert: "or its designee"

4. Page 9, line 7.
Following: "assigned"
Insert: ", verified"
Strike: "supervised"
Insert: "documented"

5. Page 11, line 16.
Following: "board"
Insert: "or its designee"

6. Page 11, line 17.
Following: "board"
Insert: "or its designee"

7. Page 11, line 19.
Strike: "to the board"

8. Page 11, line 21.
Following: "board"
Insert: "or its designee"

9. Page 11, line 23.
Following: "board"
Insert: "or its designee"

10. Page 11, line 25.
Following: "board"
Insert: "or its designee"

11. Page 12, line 5.
Strike: "The"
Insert: "If the board sets the fees, the"

Testimony

EXHIBIT 6
DATE 1-14-91
HB 118

HOUSE BILL 118 - PHARMACY TECHNICIAN
January 14, 1991

Presented by
Dave Runkel, Rph, F.A.S.C.P.
Mt. State Pharmaceutical Association/Mt. Society of Hospital Pharmacists
Liaison and Board Member

Good afternoon, my name is Dave Runkel and I am a Hospital Pharmacist. I am employed at the Deaconess Hospital in Great Falls and have been practicing for 9 years.

My goal over the next few minutes is to provide you with a short history on how the idea of Technicians (Techs) has evolved, what roles the techs will fill, how this will allow the Pharmacist to more fully utilize his or her knowledge and outline the positive effects of expanding the Pharmacist and tech roles for both the patient and health care system.

The idea of using Techs in pharmacy is not new. It has been discussed since the late 1950s. As you will hear later the Federal Government has used Techs in the Veterans Administration (VA) hospitals since the late 1960s. Private institutions and retail pharmacies have employed Techs since the mid 1970s.

As the profession of pharmacy has developed over the years, pharmacists have become experts in drug distribution and medication use. While gaining this expertise, we have analyzed the various functions performed. These analyses have shown many tasks involved non-judgemental, repetitive work. These non-judgemental duties, have been proven to be verifiable by a Pharmacist.

The Tech role is seen as a progression or an updating of the practice of pharmacy, similar to the progression of many other health care professions and their increasing use of technical personnel. The progression of the practice of pharmacy also involves expanding the role of the Pharmacist. The expanding role of the pharmacist will benefit both the patient and the public.

The individual patient is benefited by the pharmacist being able to spend more time with patient concerns. The specific concerns a Pharmacist can address are:

1. Individual patient counseling on how to take their medications properly.
2. Providing the patient with knowledge of side effects and how to avoid or handle these potential problems.
3. Patient referral within the Health Care System.

4. More complete Drug-Drug, Drug-Allergy, Drug-Food and Drug-Disease state screening.

5. Drug Regimen review. A process that helps to eliminate unnecessary drugs and avoid duplication.

All of these activities combine to provide better health care to the patient.

Health Care dollars are also spent more efficiently. Below are two examples of this.

1. Pharmacists that consult for Nursing Homes have been able to show better patient care and a net savings of a projected 220 million dollars annually. These are 1983 dollars.
2. The Federal Government has passed laws requiring States to provide:
   a. Retrospective reviews of all Medicaid patient drug regimens.
   b. Physician and Pharmacist education in areas that are shown to be a problem as a result of drug regimen review.
   c. Patient counseling by Pharmacists when the prescription is dispensed.

   These activities have increased the quality of patient care and paid 1.5 to 3.0 dollars back for every dollar spent.

As you can see there is a role for Pharmacists and Techs to fill. The new roles will not only save money but increase the quality of services provided to the individual patients. The safety of using Techs has been demonstrated not only in the VA hospitals, but also in private settings in other states. The passage of this bill will be the first step in a progression of activities that will update the practice of pharmacy and keep the individual patient's safety and welfare as the number one concern.

EXHIBIT 9
DATE 1-14-91
HB 118

P.O. Box 683
Helena, Montana 59624
January 14, 1991

Health and Human Services Committee
Angela Russell, Chairperson
House of Representatives
State of Montana
Helena, Montana 59601

Dear Chairperson Russell and Members of the Committee:

My name is Ann Gidel. I am a registered pharmacist in the State of Montana, graduating from the University of Montana School of Pharmacy in 1975. I have spent my career working for the Department of Veterans Affairs and am currently employed at the Fort Harrison VA Medical Center as the Pharmacy Supervisor and Clinical Pharmacy Coordinator. I am also here today representing the Montana Society of Hospital Pharmacists. I have served on the Board of Directors of that organization since 1985 and am currently the Immediate Past-President.

I am here to express my support for House Bill 118 that will update the Pharmacy Practice Act to allow pharmacists to utilize technical help for distributive functions. The Montana Society of Hospital Pharmacists has looked at the need to update the Pharmacy Practice Act for years. This is felt necessary for several reasons:

1. A shortage of pharmacists is becoming apparent in the state. Certain functions such as counting medications, compounding IV solutions, filling unit dose cassettes, and pre-packaging medications do not require the judgement of a pharmacist and therefore could be performed by trained technical help. This would enable us to reserve pharmacist's time for more professional responsibilities such as patient education and drug usage evaluations.

2. The current law does not establish standards of practice where auxiliary personnel may be utilized. In addition it does not specify training requirements of these individuals. The proposed changes will more clearly define the responsibilities technicians would be able to perform and the training required. Furthermore the changes will ensure the establishment of utilization plans that outline procedures for a pharmacist's final check of all products prior to their reaching the patient. This standardization is felt to be an improvement in assuring patient safety over the current law.

Ex. 9
1-14-91
HB 118

Although the Montana Society of Hospital Pharmacists has felt changes in the law were necessary for years, we have not pursued Legislative changes previously, because we felt that careful review of the issue was necessary. In that time, we have developed a consensus of opinion with the Montana State Pharmaceutical Association, and among hospital and retail pharmacists on specifically what regulations should be suggested to the State Board of Pharmacy to govern the responsibilities, supervision, training, and quality assurance of technicians in distribution functions. During this process, we have kept the State Board of Pharmacy informed of our activities and utilized them as a reference source regarding regulations currently in place in other states and for input on how such regulations could be implemented in our state.

As I previously stated I am an employee of the Department of Veterans Affairs. As a federal institution we are exempt from the state regulations governing the use of technical help. Since my employment with the Department of Veterans Affairs, I have worked closely with and supervised technicians performing distributive functions. I can verify that mechanisms have been developed to ensure the quality of work and the patient's safety are maintained. Procedures require a pharmacist to maintain the ultimate responsibility for the drug delivered to the ward or dispensed to the patient. This assurance is refined through performance requirements and quality management monitors as part of our "utilization plan":

1. Using IV compounding as an example, certification training is initially required. Procedures require a pharmacist's check of the technician's calculations required for compounding, and the assurance of proper solution and additives. Errors identified in the checking process are recorded. This is linked to performance standards which take in to consideration the number of errors recorded and the potential severity of the error. As a matter of record it is important to note that errors are essentially non-existent. In addition to error documentation, our quality management plan requires regular aseptic technique monitoring and sterility monitoring to ensure proper technique by all employees is maintained.

2. With respect to unit dose cart filling, pharmacists check all carts to ensure the proper drugs have been dispensed. Errors are again recorded in a log book, which are periodically tabulated and applied to the technician's performance standards. Satisfactory performance is dependent upon maintaining an error rate less than that specified in the standard. To reflect upon the trained technician's capabilities in this area our average error rate equates to 0.06%.

EXHIBIT 9
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HB 118

Through the utilization of technical help, we have been able to free up our pharmacists' time to perform more professional tasks. Tangible benefits are many. We calculate conservative estimates of cost savings achieved through pharmacists' interventions with physicians on such things as receiving authorization to use lower cost therapeutically equivalent drugs and recommendations to eliminate unnecessary drugs from a patient's drug regimen. The estimated savings for FY89 was $89,674 and for FY90 was $94,820. These savings are based upon the federal government's drug costs and do not even closely represent the savings that can be achieved in the private sector. Intangible benefits that increase patient safety are also evident through such efforts. Pharmacists' monitoring of patient's drug therapy has been shown extremely effective in preventing adverse drug reactions that occur from drug toxicity or drug interactions. Pharmacists are the ideal professionals to educate patients on their medications, which has been shown to decrease hospital admissions through improved compliance in taking medications, earlier identification of adverse drug reactions and taking medications at the proper times to avoid food and drug interactions.

I will close with the summary that I have worked with technical help for the past 15 years. I strongly feel that such assistance is a great asset to the profession of pharmacy in providing cost-effective and safe drug therapy to our patients. I thank you for your time.

Ann Gidel

DATE 1-14-91
HB 118

2770 Howard Road
Helena, MT 59601
January 14, 1991

Health and Human Services Committee
Angela Russell, Chairperson
House of Representatives
State of Montana
Helena, Montana 59601

I worked as a Licensed Practical Nurse for 13 years. Four years ago I changed my profession to become a Pharmacy Technician at the VA Medical Center.

Pharmacy Technicians are now responsible for many areas of pharmacy service including clerical duties, inventory and stock control, budget control, processing prescriptions and refill requests, and preparing intravenous solutions. Pharmacy Technicians are given thorough training in all areas they are responsible for. We work along with and under the supervision of a pharmacist. In addition to writing policies and procedures, there are regular methods in place to assure the ability and competency of all pharmacy staff, and to ensure the quality of medications received by the patient.

The roles of many medical professions have changed in the past years. Historically it had been the responsibility of Registered Nurses to provide patients with medications and I.V. solutions. As the RNs role changed LPNs were given the training and responsibility for the service.

Historically, pharmacists have been the sole provider of all services from a pharmacy. The pharmacy technician is now trained to take over some of this responsibility, thus allowing the pharmacist more time for direct patient counseling, providing information to physicians, and other clinical duties.

I support House Bill 118 and want my written testimony to be part of the permanent record.

Donna Nopp

Donna Nopp

11
DATE 1-14-91
HB 118

212 Blake Street
Helena, Montana 59601
January 14, 1991

Health and Human Services Committee
Angela Russell, Chairperson
House of Representatives
State of Montana
Helena, Montana 59601

My name is Lori FitzGerald and I am a pharmacist at Ft. Harrison VA Medical Center in Helena. I am also a 1987 graduate of the University of Montana School of Pharmacy. I have just recently moved back to Montana from Minnesota, where I was a staff pharmacist in a large hospital in Duluth. Minnesota is a state where technicians are extensively and productively used in the pharmacy setting. Through my experience there, I found that a properly trained and adequately supervised technician can be indispensable for tasks such as unit dose filling and IV admixture preparation. Trained, supervised technicians can produce a large volume of accurate work, that is safe and cost-effective for the patient, while freeing up the pharmacist for other clinical functions. Therefore, I support House Bill 118.

Lori FitzGerald
Lori FitzGerald

VISITORS' REGISTER

Human Services & Aging COMMITTEE

BILL NO. 118 DATE 1-14-91

SPONSOR J. Braun

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
MARK EICHLER RPh FASCP	Helena	X	
Dave Rankel RPh FASCP	Great Falls	X	
John Doe RPh	Great Falls	X	
Dee Dee Cress Pharm D.	Helena	X	
Ann Gidel, RPh	Helena	X	
Dennis Hunt RPh	Helena	X	
Lori Fitzgerald	Helena	X	
Maureen Arnold, RPh	Dept Commerce Helena		
Donna Nagy	Helena	X	
Mary K McCue	MSPA, ATPHARMSHP	X	
Charles R. Brooks	MT Pharm. Assoc - Helena	X	
Bonnie Tippy	MSPA, Helena	X	
Ellen Sheehan	Helena	X	
Jan F Ahrens	Helena	X	
KAREN J. MOORE LPN	Helena		X
MARSHA DALLTON, LPN	Helena		X
STEPHEN H. MELOY	Dept of Comm/HLN		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

MINUTES

MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON PUBLIC HEALTH, WELFARE & SAFETY

Call to Order: By Chairman Dorothy Eck, on January 30, 1991, at 1:04 p.m.

ROLL CALL

Members Present:
Dorothy Eck, Chairman (D)
Eve Franklin, Vice Chairman (D)
James Burnett (R)
Thomas Hager (R)
Judy Jacobson (D)
Bob Pipinich (D)
David Rye (R)
Thomas Towe (D)

Members Excused: None

Staff Present: Tom Gomez (Legislative Council)
Christine Mangiantini (Committee Secretary)
Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion:

HEARING ON HOUSE BILL 118

Presentation and Opening Statement by Sponsor:

The chairman recognized Representative Jan Brown who said the bill would allow licensed pharmacists to use pharmacy technicians. The technicians could perform certain tasks in a pharmacy that do not involve the pharmacists independent judgement. They have to be tasks that the pharmacist can verify. In certain settings hospitals need assistance to provide services to patients in need of prescription drugs. By allowing a technician to perform certain tasks the pharmacist is free to provide patient counseling and education. The bill has been worked on over the past year by a variety of pharmacists. The concept of using technicians is not new, they have been used in federal hospitals for many years. The bill passed the House with only three descending votes. The sponsor requested the chairman recognize the proponents of the measure.

Proponents' Testimony:

The chairman called for testimony from persons in favor of HB 118. The first witness to testify was David Runkel, representing the Montana State Pharmaceutical Association and the Montana Society of Hospital Pharmacists. See Exhibit #1 for a copy of his testimony.

The second witness to testify in favor of HB 118 was Ann Gidel, representing the Montana Society of Hospital Pharmacists. See Exhibit #2 for a copy of her testimony.

The third witness to testify in favor of HB 118 was Mark Eichler, representing the Montana State Pharmaceutical Association. Mr. Eichler said he is a pharmacist in a retail setting in Helena. He said this bill represented a significant step forward in quality health care by allowing pharmacists to be free from the technical aspect of dispensing drugs. He said time could be better spent reviewing patient profiles and in patient education. He said the public would receive more of the pharmacists time to discuss the consumption of the medications, their interaction with foods and the side effects that may be experienced. Proper safeguards and guidelines are in place to verify all technicians functions. The pharmacists still maintains control over the dispensing function. This is not new legislation, only for Montana. He asked for the committee's consideration of the bill.

The fourth witness to testify in favor of HB 118 was John Woon, representing the Montana Society of Hospital Pharmacists. See Exhibit #3 for a copy of his testimony.

The fifth witness to testify in favor of HB 118 was Stan Hall who said he is a nurse practicioner at the Fort Harrison Veterans Hospital. He has worked for the Veterans Administration for ten years, he has dispensed medications and has prescribed medications that have been dispensed to his patients. He said the system is cost-effective because they have been able to utilize pharmacy dollars to hire an additional pharmacist to work in the out-patient department. One of the big problems with the older patients is that they are on a number of different medications and some have had virtually no education on how to consume their medications. When a patient comes in with six or eight different medications, a pharmacist can be called and consulted with about the medications. He advocates the use of pharmacy technicians under the proposed program and the rules that would be adopted by the Board of Pharmacy.

The sixth witness to testify in favor of HB 118 was Jim Aherns, president of the Montana Hospital Association. He said the Association supports the bill and urged passage.

The seventh witness to testify in favor of HB 118 was Mary McCue, representing the Montana State Pharmaceutical Association and the Montana Society of Hospital Pharmacists. She said she assisted the groups in drafting the bill. She explained the intent of the measure and said that the pharmacist will train the technician and be responsible for their ongoing competency. The pharmacist will prepare a detailed utilization plan explaining how the technicians services will be used. The plan will be on-site at the pharmacy and a summary sent to the Board. The bill is written to allow the Board to designate the review and approval function to a party other than the Board because of the heavy workload of the Board. The pharmacy will pay a fee, the plan will be reviewed at the pharmacy and both the technician and the pharmacist will be interviewed. The statement of intent includes a list of responsibilities the technician will perform. The list was not included in the statute because it was preferred to leave it to the Board. As time goes by the allowable functions may change.

Opponents' Testimony:

None.

Questions From Committee Members:

The chairman recognized Senator Jacobson who asked a question about the two utilization plans in the fiscal note.

Mary McCue responded that the fiscal note was prepared by taking the number of licensed pharmacists in the state and assumed each pharmacist will use only one technician at a time. The ratio will be one to one, except if the technician is performing the designated functions listed in the fiscal note. The number of pharmacists was multiplied by two expecting that there is a potential that each pharmacist would have two technicians. The pharmacy will pay the fees. The fee will probably vary if there is more than one technician. Not every pharmacist is going to use a technician. We estimate 100 or 125.

Senator Jacobson asked about the 1/4 FTE required to handle the increased workload.

Mr. Steve Meloy from the Department of Commerce responded that they prepared the fiscal note on the assumption that the board would perform the majority of the work. Based upon the formulas applied to all other bureaus, it is possible that each pharmacist would be submitting two utilization plans because it is allowed in the law. The fiscal note is academic if the duties are designated to another entity. The Board will have to provide professional and support staff, pay fees, pay insurance and bonds, printing of forms and other expenses. The fiscal note was prepared based upon the worst case scenario.

The chairman recognized Senator Hager who asked Mary McCue why volunteers could not be used as technicians.

Mary McCue responded that the volunteers would have to be trained. She asked Ann Gidel to respond. Ms. Gidel said volunteers could not be used because of the amount of training that a technician goes through and because volunteers are a temporary workforce. She said volunteers are hard to come by, usually are elderly with little manual dexterity and may have trouble with the physical needs of the technicians jobs.

The chairman recognized Senator Franklin who commented that there is quite a bit of investment in the position.

The chairman recognized Senator Towe who asked where in the bill it allowed the Board to adopt rules.

Mary McCue responded that the materials will be codified in the Pharmacists Practice Act and there is a broad rulemaking provision within that Act. She said to implement the bill the Board will have to have a rule to set forth the functions that technicians can perform. She said they decided not to insert the tasks into the statute but wanted to create a comfort level by giving the legislature some idea of the type of responsibilities the technicians would be performing. They probably could have left the list out, but wanted to present the types of activities that they will be doing.

The chairman recognized Senator Towe who said somewhere in the code it should denote that the board will make rules outlining the functions. He read from Section 7 of the bill about support personnel and assumed that a secretary could not type a prescription label and affix it to the bottle.

Mary McCue responded by saying that would be described in the utilization plan and she recommended a pharmacist answer the question.

Mr. Runkel said the duties involve specialized knowledge. He said prescriptions are typically written with Latin abbreviations. If you don't have training to interpret the Latin abbreviations then you are asking someone unqualified to do the job. He stated an example of an abbreviation. He said he is comfortable with that rule being adopted.

The chairman asked Mary McCue if the bill should go through the Sunrise process and asked if she had discussed and verified this with the Legislative Council.

Ms. McCue said if you look at the Sunrise statute it clearly says if you are licensing a new profession or occupation then you must comply. She said they are not doing that and not creating another professional group.

There is a provision in the bill that states the pharmacist has to remain responsible for the technician. The basic requirement is the person be 18 years old and a high school graduate. She said she discussed the bill with an employee of the Legislative Auditor's office and he agreed with the interpretation of the statute.

The chairman responded that even though they expect a significant amount of specified training there is not any examination nor any point where you can say the person has received adequate training.
She continued by saying technicians are used in other states and asked if they are licensed and certified.

Ann Gidel said they had looked at the rules in other states such as Washington, Oregon, Idaho, Minnesota, Nevada, Wisconsin and Arizona, Michigan and Utah. She said it varied by state. Washington does certify and has two different types based upon retail or hospital situations. Idaho and Oregon are not requiring certification but are proposing the supervising pharmacist is responsible for the technicians training program.

The chairman asked if there was an association of technicians.

Ann Gidel responded that there is the American Society of Pharmacy Technicians. The Society has not come forward with any recommendation. Pharmacy associations are coming out with recommendations on core training programs and some are advocating certification in the future.

The chairman recognized Senator Towe who said by going through the utilization plan it authorizes the practice of the pharmacy technician. If the Board decides an individual should not be performing the functions proposed in the plan they will disapprove the plan.

Mary McCue said that was true and the plan has to be annually renewed.

The chairman said the requirements are on the pharmacist not on the technician.

Mr. David Runkel said the pharmacist is liable for the actions of the technician. The product that is dispensed or the information given out is directly related back to the pharmacist.

The chairman recognized Senator Towe who asked why the bill was needed.

Mr. Runkel said several legal counsels on the national level reviewed the Montana statute and said they could not utilize technicians in this manner unless the statute was amended.

Senator Towe asked if this was direct or general supervision.

Mary McCue responded that it is direct supervision.

The chairman recognized Senator Jacobson who said she did not understand how they got around the Sunrise process. She read from the statute. She said because we were not licensing them it was not applicable to the Sunrise process.

Mary McCue and her colleagues said the approval was not of the individual but of the site. An individual at the site will be responsible for implementing the plan and monitoring the plan. The site pays the fee to utilize the individuals.

Senator Towe suggested the bill should be sent to the Rules Committee to see if there is a problem.

The chairman asked who in the Auditor's office looked at the bill.

Senator Jacobson suggested that person address the committee about the bill.

The chairman asked for further questions from the Committee. There being none she asked the sponsor to close.

Closing by Sponsor:

Representative Brown said she appreciated the thoroughness of the hearing and hoped the questions would be addressed. She said when the members of the profession get together and decide what they want, it is unfortunate when the Legislature has to put a stumbling block in their way. They worked on the bill for a long time and she asked for concurrence on the measure.

HEARING ON SENATE BILL 174

Presentation and Opening Statement by Sponsor:

Senator Franklin said she was asked by the state licensure board and the professional clinical psychologists to carry the bill. She said the measure provides for continuing education for psychologists, provides for an additional fee be levied for continuing education and lengthens the term of members on the Board. The most compelling aspect of the legislation is the continuing education section. The bill requires all clinical psychologists to maintain a certain number of continuing education hours on an annual basis. In 1986 the American Psychological Association proposed that all state psychology boards require continuing education. Nineteen states have approved mandated continuing education and five states have legislation pending.

ROLL CALL

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

Date 01-30-91

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BURNETT	X		
SENATOR FRANKLIN	X		
SENATOR HAGER	X		
SENATOR JACOBSON	X		
SENATOR PIPINICH	X		
SENATOR RYE	X		
SENATOR TOWE	X		
SENATOR ECK	X		

Each day attach to minutes.

SENATE HEALTH & WELFARE
EXHIBIT NO. 1
DATE 1-30-91
BILL NO. HB 118

Testimony

HOUSE BILL 118 - PHARMACY TECHNICIAN
January 30, 1991

Presented by
Dave Runkel, Rph, F.A.S.C.P.
Mt. State Pharmaceutical Association/Mt. Society of Hospital Pharmacists
Liaison and Board Member

Good afternoon, my name is Dave Runkel and I am a Hospital Pharmacist. I am employed at the Deaconess Hospital in Great Falls and have been practicing for 9 years.

My goal over the next few minutes is to provide you with a short history on how the idea of Technicians (Techs) has evolved, what roles the techs will fill, how this will allow the Pharmacist to more fully utilize his or her knowledge and outline the positive effects of expanding the Pharmacist and tech roles for both the patient and health care system.

The idea of using Techs in pharmacy is not new. It has been discussed since the late 1950s. As you will hear later the Federal Government has used Techs in the Veterans Administration (VA) hospitals since the late 1960s. Private institutions and retail pharmacies have employed Techs since the mid 1970s.

As the profession of pharmacy has developed over the years, pharmacists have become experts in drug distribution and medication use. While gaining this expertise, we have analyzed the various functions performed. These analyses have shown many tasks involved non-judgemental, repetitive work. These non-judgemental duties, have been proven to be verifiable by a Pharmacist.

The Tech role is seen as a progression or an updating of the practice of pharmacy, similar to the progression of many other health care professions and their increasing use of technical personnel. The progression of the practice of pharmacy also involves expanding the role of the Pharmacist. The expanding role of the pharmacist will benefit both the patient and the public.

The individual patient is benefited by the pharmacist being able to spend more time with patient concerns. The specific concerns a Pharmacist can address are:

1. Individual patient counseling on how to take their medications properly.
2. Providing the patient with knowledge of side effects and how to avoid or handle these potential problems.

Ex. 1
1-30-91
HB 118

4. More complete Drug-Drug, Drug-Allergy, Drug-Food and Drug-Disease state screening.
5. Drug Regimen review. A process that helps to eliminate unnecessary drugs and avoid duplication.

All of these activities combine to provide better health care to the patient.

Health Care dollars are also spent more efficiently. Below are two examples of this.

1. Pharmacists that consult for Nursing Homes have been able to show better patient care and a net savings of a projected 220 million dollars annually. These are 1983 dollars.
2. The Federal Government has passed laws requiring States to provide:
   a. Retrospective reviews of all Medicaid patient drug regimens.
   b. Physician and Pharmacist education in areas that are shown to be a problem as a result of drug regimen review.
   c. Patient counseling by Pharmacists when the prescription is dispensed.

   These activities have increased the quality of patient care and paid 1.5 to 3.0 dollars back for every dollar spent.

As you can see there is a role for Pharmacists and Techs to fill. The new roles will not only save money but increase the quality of services provided to the individual patients. The safety of using Techs has been demonstrated not only in the VA hospitals, but also in private settings in other states. The passage of this bill will be the first step in a progression of activities that will update the practice of pharmacy and keep the individual patient's safety and welfare as the number one concern.

P.O. Box 683
Helena, Montana 59624
January 29, 1991

SENATE HEALTH & WELFARE
EXHIBIT NO. 2
DATE 1-30-91
BILL NO. HB 118

Public Health, Welfare & Safety Committee
Dorothy Eck, Chairperson
State of Montana Senate
Helena, Montana 59601

Chairperson Eck and Members of the Committee:

My name is Ann Gidel. I am a registered pharmacist in the State of Montana. I have spent my career working for the Department of Veterans Affairs and am currently employed at the Fort Harrison VA Medical Center as the Pharmacy Supervisor and Clinical Pharmacy Coordinator. I am also here today representing the Montana Society of Hospital Pharmacists. I have served on the Board of Directors of that organization since 1985 and am currently the Immediate Past-President.

I am here to express my support for House Bill 118 that will update the Pharmacy Practice Act to allow pharmacists to utilize technical help for distributive functions. The Montana Society of Hospital Pharmacists has looked at the need to update the Pharmacy Practice Act for years. This is felt necessary for several reasons:

1. A shortage of pharmacists is becoming apparent in the state. Certain functions such as compounding IV solutions, and filling unit dose cassettes do not require the judgement of a pharmacist and therefore could be performed by trained technical help. This would enable us to reserve pharmacist's time for more professional responsibilities such as patient education and drug usage evaluations.

2. The current law does not establish standards of practice where auxiliary personnel may be utilized. In addition it does not specify training requirements of these individuals. The proposed changes will more clearly define the responsibilities technicians would be able to perform and the training required. Furthermore the changes will ensure the establishment of utilization plans that outline procedures for a pharmacist's final check of all products prior to their reaching the patient. This standardization is felt to be an improvement in assuring patient safety over the current law.

Although the Montana Society of Hospital Pharmacists has felt changes in the law were necessary for years, we have not pursued Legislative changes previously, because we felt that careful review of the issue was necessary. In that time, we have developed a consensus of opinion with the Montana State Pharmaceutical Association, and among hospital and retail pharmacists on specifically what regulations should be suggested to the State Board of Pharmacy to govern the responsibilities, supervision, training, and quality assurance of technicians in distribution functions. During this process. we have kept the State Board of Pharmacy informed of our activities and utilized them as a reference source regarding regulations currently in place in other states and for input on how such regulations could be implemented in our state.

As I previously stated I am an employee of the Department of Veterans Affairs. As a federal institution we are exempt from the state regulations governing the use of technical help. Since my employment with the Department of Veterans Affairs, I have worked closely with and supervised technicians performing distributive functions. I can verify that mechanisms have been developed to ensure the quality of work and the patient's safety are maintained. Procedures require a pharmacist to maintain the ultimate responsibility for the drug delivered to the ward or dispensed to the patient. This assurance is refined through performance requirements and quality management monitors as part of our "utilization plan":

1. Using IV compounding as an example, certification training is initially required. Procedures require a pharmacist's check of the technician's calculations required for compounding, and the assurance of proper solution and additives. Errors identified in the checking process are recorded. This is linked to performance standards which take in to consideration the number of errors recorded and the potential severity of the error. As a matter of record it is important to note that errors are essentially non-existent. In addition to error documentation, our quality management plan requires regular aseptic technique monitoring and sterility monitoring to ensure proper technique by all employees is maintained.

2. With respect to unit dose cart filling, pharmacists check all carts to ensure the proper drugs have been dispensed. Errors are again recorded in a log book, which are periodically tabulated and applied to the technician's performance standards. Satisfactory performance is dependent upon maintaining an error rate less than that specified in the standard. To reflect upon the trained technician's capabilities in this area our average error rate equates to 0.06%.

Ex. 2
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Through the utilization of technical help, we have been able to free up our pharmacists' time to perform more professional tasks. Tangible benefits are many. We calculate conservative estimates of cost savings achieved through pharmacists' interventions with physicians on such things as receiving authorization to use lower cost therapeutically equivalent drugs and recommendations to eliminate unnecessary drugs from a patient's drug regimen. The estimated savings for FY89 was $89,674 and for FY90 was $94,820. These savings are based upon the federal government's drug costs and do not even closely represent the savings that can be achieved in the private sector. Intangible benefits that increase patient safety are also evident through such efforts. Pharmacists' monitoring of patient's drug therapy has been shown extremely effective in preventing adverse drug reactions that occur from drug toxicity or drug interactions. Pharmacists are the ideal professionals to educate patients on their medications, which has been shown to decrease hospital admissions through improved compliance in taking medications, earlier identification of adverse drug reactions and taking medications at the proper times to avoid food and drug interactions.

I will close with the summary that I have worked with technical help for the past 15 years. I strongly feel that such assistance is a great asset to the profession of pharmacy in providing cost-effective and safe drug therapy to our patients. I thank you for your time.

Ann Gidel

Exhibit 2a
1-30-91
HB 118

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 30th day of JANUARY, 1991.

Name: MARK EICHLER

Address: 4224 GREEN ACRE
Helena, MT

Telephone Number: 449-2555 H 443-5850 W

Representing whom?
MSPA

Appearing on which proposal?
HB118

Do you: Support? X Amend?____ Oppose?____

Comments:
TESTIMONY GIVEN.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

I would just like to reinforce what my collegues have expressed in their testimony. This bill is the product of literally years of dicussion and work on the part of Montana pharmacists. Throughout the many conferences and individual discussions, a primary focus was that of patient safety. This updating of the Pharmacy Practice Act will allow pharmacists of Montana to effectively utilize support personnel in non-discretionary roles allowing pharmacists more flexibility in their schedules to employ their knowledge of medications to benefit the patient. Some examples of pharmacist activities which can have positive implications for ~~the~~ patient are; patient counselling, profile monitoring for interactions and duplication, therapeutic drug monitoring, and drug usage evaluation. As was pointed out, this is not a new concept and with the ever increasing demands for a pharmacists knowledge and expertise, it will be essential for us to be able to utilize appropriately trained, supervised, and monitored technical support personnel so the practicing pharmacist can fulfill society's needs in todays complex healthcare environment.

John Wood.

SENATE HEALTH & WELFARE
EXHIBIT NO. 3
DATE 1-30-91
BILL NO. HB 118

Exhibit 3a
1-30-91
HB 118

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 30th day of Jan, 1991.

Name: Stan Hall

Address: 5770 Sharptail Dr. Helena MT.

Telephone Number: 449 4924

Representing whom?

Self

Appearing on which proposal?

118

Do you: Support? ✓ Amend?____ Oppose?____

Comments:

Have worked with similar system for 10 years. It is cost effective & safe.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

Ex. 3b
1-30-91
HB 118

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 30 day of January, 1991.

Name: Mary McCae

Address: 2224 Gold Rush Ave.

Telephone Number: 442-4448

Representing whom?

Mt. State Pharmaceutical Ass'n
Mt. Society of Hospital Pharmacists

Appearing on which proposal?

House Bill 118

Do you: Support? ✓ Amend?_____ Oppose?_____

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

DATE January 30, 1991

COMMITTEE ON senate committee on public health, welfare & safety

SB 174 - FRANKLIN HB 118 - BROWN

VISITORS' REGISTER SJR 7 - HARDING

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
n Langley	Montana AgriBusiness Assn	SJR7	✓	
chard McLaughlin	Board of Psychologists	174	✓	
Mc Burke	Stockgrowers/Woolgrowers	SJR 7	✓	
ARK EICHLER	MSPA	HB118	✓	
orge Harris	MT Dept of Agriculture	SJR7	✓ testimony	
Paul Sullivan	" " " "	SJR 7	✓ testimony	
Dan Ates	Dept Intrst	SB174	✓	
Jim Runkel RPh	MSPA, MSHP	SB118	✓	
orraine Gillies	MT Farm Bureau	SJR 7	✓	
Johnson Kimbel	Public Safety Div / DOC	174	Information	
Ann Gidel	MSHP, MSPA	118	✓	
Stan Hall	self	118	✓	
Terry Minow	MT Ed St Employees	SB174		✓
John Wm	Montana Society of Hospital Pharm	HB118	✓	
Carol Fox	self - lic. psych	174	✓	

Recommendation and Vote:

There being no objection the motion carried.

EXECUTIVE ACTION ON HOUSE BILL 118

Motion:

Senator Towe moved adoption of the amendments in Exhibit #2.

Discussion:

Senator Eck said she had the amendments drafted in Exhibit #2 and asked Steve Shapiro, legal counsel at the Department of Commerce to explain their intent and impact.

Mr. Shapiro said from their reading of the bill it would authorize the Board of Pharmacy to delegate it's power to a private entity. They view that as a legal problem because the Constitution does not recognize the exercise of government power through a private entity. If the Board were to authorize a trade association to exercise legal authority it would be outside constitutional limits.

Senator Jacobson asked if other board's who give examinations utilize private entities.

Mr. Shapiro said they utilize the services of commercial testing organizations by contract and for a fee provide examinations and grade the tests. The difference in this bill is in the regulation of a profession within Montana, possibly by a trade association of that very profession. They lose the objectivity.

Senator Jacobson said their idea was to contract out someone to go through a utilization plan which is similar to testing.

Mr. Shapiro said the difference is in the language. In the bill it discusses a designee of the board. That sounds like the board gives it's authority to another entity and does not retain power as is done through a contract. If there were a contract involved here he would wonder if it would be a conflict of interest. It is the very profession regulating itself.

Senator Jacobson asked Mary McCue, a lobbyist for the Montana Pharmaceutical Association, what she thought of the discussion.

Ms. McCue said she wanted to point out that the way the bill is written the board retains control to draft the rules and set the fee. The board staff has indicated to the Association that they do not want to take on those duties. There is precedent for this.

Senator Jacobson asked her who she thought the designee would be.

Ms. McCue said it would be the Montana State Pharmaceutical Association. She said when she drafted the bill she made an error. She had the designee setting the fee that was her drafting mistake. They discussed this with the staff lawyer of the House committee and he advised them their was not a legal problem.

Chairman Eck said according to the bill that was an amendment not the original language. It was a House amendment.

Ms. McCue said that was right. The error was when she did the amendments for the House committee. The designee was in the entire bill except for that section. When she drafted amendments she included them in the language setting the fee. Then we realized they were not intending for the designee to set the fee. The Board retains the power to do the rules and set the fee.

Senator Towe suggested that the amendments are well taken and said the Board has to reserve the ultimate responsibility for everything.

Ms. McCue said she is contemplating that but she wants the committee to be very aware that is the scheme that is contemplated. It has been discussed and will likely happen. The Board feels it does not have sufficient staff or time to perform the duties.

Amendments, Discussion, and Votes:

There being no objections the amendments denoted in Exhibit #2 were adopted.

Motion:

Senator Towe moved adoption of the amendments denoted in Exhibit #3.

Discussion:

Senator Towe explained that the purpose of the amendments were to avoid the problem of getting involved with the Sunrise law. The concept is instead of going in and having a pharmacy technician licensed with special qualifications, he eliminated that language and said the local pharmacist could delegate authority to another auxiliary as long as that authorization is granted by the Board through the utilization plan. That is the concept. It would not be a Sunrise problem.

He talked through each amendment in Exhibit #3.

Senator Hager protested the comments made by Senator Towe regarding the Sunrise law. He said they passed the Sunrise bill four years ago. He said he objected to the statement that they were considering these amendments just because it would skirt the Sunrise law.

Senator Towe responded by saying what he was proposing was better than the Sunrise law. He was proposing not to license the technicians, but allow the pharmacist to delegate authority to employees with Board approval. There is a better solution without creating a new license.

The chairman recognized Bonnie Tippy, executive director of the Montana Pharmaceutical Association. She said they drafted the amendments. She said she has concerns about the training. She does not think there is a Sunrise problem with the bill without the amendments.

The chairman recognized Steve Meloy, Bureau Chief of the Professional and Licensing division of the Department of Commerce. He said they discussed the problem about designating the Board's authority to an outside agency and prepared the fiscal note assuming the department would perform all of the work. He said his problem with the bill was that he did not want the Board to delegate it's authority to set fee's by rule. He said they will do whatever activities are denoted in the bill.

Senator Franklin voted in opposition to adoption of the amendments denoted in Exhibit #3 and all other committee members voted in favor of adoption. The motion carried.

Recommendation and Vote:

Senator Pipinich moved to concur in HB 118 as amended. There being 8 ayes and 0 nays the motion carried.

ADJOURNMENT

Adjournment At: 4:00 p.m.

Dorothy Eck
SENATOR DOROTHY ECK, Chairman

Christine Kaufmann
CHRISTINE KAUFMANN, Secretary

DE/cm

PR030691.SM1

ROLL CALL

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

Date 3/6/91

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BURNETT	X		
SENATOR FRANKLIN	X		
SENATOR HAGER	X		
SENATOR JACOBSON	X		
SENATOR PIPINICH	X		
SENATOR RYE	X		
SENATOR TOWE	X		
SENATOR ECK	X		

Each day attach to minutes.

POOR COPY

SENATE STANDING COMMITTEE REPORT

MR. PRESIDENT:
We, your committee on Public Health, Welfare, and Safety having had under consideration House Bill No. 118 (third reading copy blue), respectfully report that House Bill No. 118 be amended and as so amended be concurred in:

1. Title, line 5.
Following: "TECHNICIAN"
Insert: "OR AUXILIARY"

2. Title, lines 6 and 7.
Following: "PLAN;" on line 6
Strike: remainder of line 6 through ";" on line 7

3. Page 1, line 13.
Following: "through"
Strike: "7"
Insert: "5"

4. Page 1, line 15.
Strike: "pharmacy technician is permitted to perform"
Insert: "pharmacist is permitted to delegate to a pharmacy technician or auxiliary"

5. Page 2, line 11.
Following: "technician"
Insert: "or auxiliary"

6. Page 2, line 18.
Following: "technician"
Insert: "or auxiliary"

7. Page 2, line 22 through page 3, line 9.
Strike: page 2, line 22 through page 3, line 9 in their entirety

8. Page 3, line 12.
Following: "technician"
Insert: "or auxiliary"

9. Page 3, line 13.
Following: "two"
Strike: "technicians"
Following: "both"
Strike: "pharmacy technicians"

10. Page 5, line 25.
Following: "technician"
Insert: "or auxiliary"

POOR COPY

11. Page 6, line 17.
Following: "technician"
Insert: "or auxiliary"

12. Page 7, line 1.
Following: "through"
Strike: "7"
Insert: "5"

13. Page 7, line 25 through page 8, line 1.
Following: "3." on page 7, line 25
Strike: remainder of page 7, line 25 through "required" on page 8, line 1
Insert: "Utilization plan"

14. Page 8, lines 2 through 10.
Strike: subsection (1) in its entirety
Renumber: subsequent subsections

15. Page 8, line 11.
Following: "A"
Strike: "pharmacy technician"

16. Page 8, lines 17 and 18.
Strike: subsection (c) in its entirety
Renumber: subsequent subsections

17. Page 8, lines 19 and 20.
Following: "tasks" on line 19
Strike: remainder of line 19 through "technician" on line 20
Insert: "delegated by the pharmacist"

18. Page 8, line 25 through page 9, line 2.
Strike: subsection (e) in its entirety
Renumber: subsequent subsection

19. Page 9, line 4.
Following: "board"
Strike: "OR ITS DESIGNEE"

20. Page 9, line 6.
Following: "delegated"
Strike: "to a pharmacy technician"

21. Page 9, line 10.
Following: "the"
Strike: "pharmacy technician"
Insert: "person to whom the authority is delegated"

POOR COPY

22. Page 9, line 12.
Following: "technician"
Insert: "or auxiliary"

23. Page 9, lines 18 and 19.
Following: "plan" on line 18
Strike: remainder of line 18 through "pharmacist" on line 19

24. Page 9, line 20 and 21.
Following: "board"
Strike: "or its designee"

25. Page 9, lines 23 and 24.
Following: "board"
Strike: "or its designee"

26. Page 10, line 1.
Following: "board"
Strike: "or its designee"

27. Page 10, line 3.
Following: "technician"
Insert: "or auxiliary"

28. Page 10, line 4.
Following: "board"
Strike: "or its designee"

29. Page 10, line 7.
Following: "through"
Strike: "7"
Insert: "5"

30. Page 10, line 8.
Following: "board"
Strike: "or its designee"

31. Page 10, line 11.
Following: "through"
Strike: "7"
Insert: "5"

32. Page 10, line 15.
Strike: "or its designee"

POOR COPY

33. Page 10, line 18.
Following: "through"
Strike: "7"
Insert: "5"

34. Page 10, line 23 through page 11, line 12.
Strike: Section 5 in its entirety
Renumber: subsequent sections

35. Page 11, line 15.
Following: "pharmacist"
Strike: "who"

36. Page 11, line 16.
Following: "technician"
Insert: "or auxiliary"

37. Page 11, line 17.
Following: "board"
Strike: "OR ITS DESIGNEE"

38. Page 11, line 21.
Following: "A"
Strike: "pharmacy technician"

39. Page 11, lines 22 and 23.
Following: "board" on line 22
Strike: "OR ITS DESIGNEE"

40. Page 12, line 3.
Following: "through"
Strike: "7"
Insert: "5"

41. Page 12, lines 4 and 5.
Following: "plan" on line 4
Strike: remainder of line 4 through "[section 5]" on line 5

42. Page 12, lines 6 and 7.
Following: "pharmacy," on line 6
Strike: remainder of line 6 through "BOARD." on line 7

43. Page 12, line 11.
Strike: "7"
Insert: "5"

44. Page 12, lines 12 through 16.
Strike: section 7 in its entirety
Renumber: subsequent sections

45. Page 13, line 3.
Following: "through"
Strike: "7"
Insert: "5"

46. Page 13, line 12.
Following: "through"
Strike: "7"
Insert: "5"

47. Page 13, line 15.
Following: "through"
Strike: "7"
Insert: "5"

48. Page 13, line 17.
Strike: "9"
Insert: "7"

49. Page 13, line 18.
Following: "through"
Strike: "8"
Insert: "6"

Signed: _____
Dorothy Eck, Chairman

3/7/91
Asd. Coord.

3-7 11:15
Sec. of Senate

SENATE HEALTH & WE
EXHIBIT NO 2
DATE 3/6
BILL NO HB 118

Amendments to House Bill No. 118
Third Reading Copy

Requested by Senator Dorothy Eck
For the Senate Public Health, Welfare, and Safety Committee

Prepared by Tom Gomez
March 6, 1991

1. Page 9, line 4.
Following: "board"
Strike: "OR ITS DESIGNEE"

2. Page 9, line 20 and 21.
Following: "board"
Strike: "or its designee"

3. Page 9, lines 23 and 24.
Following: "board"
Strike: "or its designee"

4. Page 10, line 1.
Following: "board"
Strike: "or its designee"

5. Page 10, line 4.
Following: "board"
Strike: "or its designee"

6. Page 10, line 8.
Following: "board"
Strike: "or its designee"

7. Page 10, line 15.
Strike: "or its designee"

8. Page 11, line 10.
Following: "board"
Strike: "or its designee"

9. Page 11, line 17.
Following: "board"
Strike: "OR ITS DESIGNEE"

10. Page 11, lines 22 and 23.
Following: "board" on line 22
Strike: "OR ITS DESIGNEE"

11. Page 12, lines 6 and 7.
Following: "pharmacy." on line 6
Strike: remainder of line 6 through "BOARD." on line 7

SENATE HEALTH & WELFARE
EXHIBIT NO 3
DATE 3/6/91
H BILL NO 118

Amendments to House Bill No. 118
Third Reading Copy

Requested by Senator Tom Towe
For the Senate Public Health, Welfare, and Safety Committee

Prepared by Tom Gomez
March 6, 1991

1. Title, line 5.
Following: "TECHNICIAN"
Insert: "OR AUXILIARY"

2. Title, lines 6 and 7.
Following: "PLAN;" on line 6
Strike: remainder of line 6 through ";" on line 7

3. Page 1, line 13.
Following: "through"
Strike: "7"
Insert: "5"

4. Page 1, line 15.
Strike: "pharmacy technician is permitted to perform"
Insert: "pharmacist is permitted to delegate to a pharmacy technician or auxiliary"

5. Page 2, line 11.
Following: "technician"
Insert: "or auxiliary"

6. Page 2, line 18.
Following: "technician"
Insert: "or auxiliary"

7. Page 2, line 22 through page 3, line 9.
Strike: page 2, line 22 through page 3, line 9 in their entirety

8. Page 3, line 12.
Following: "technician"
Insert: "or auxiliary"

9. Page 3, line 13.
Following: "two"
Strike: "technicians"
Following: "both"
Strike: "pharmacy technicians"

10. Page 5, line 25.
Following: "technician"
Insert: "or auxiliary"

11. Page 6, line 17.
Following: "technician"
Insert: "or auxiliary"

12. Page 7, line 1.
Following: "through"
Strike: "7"
Insert: "5"

13. Page 7, line 25 through page 8, line 1.
Following: "3." on page 7, line 25
Strike: remainder of page 7, line 25 through "required" on page 8, line 1
Insert: "Utilization plan"

14. Page 8, lines 2 through 10.
Strike: subsection (1) in its entirety
Renumber: subsequent subsections

15. Page 8, line 11.
Following: "A"
Strike: "pharmacy technician"

16. Page 8, lines 17 and 18.
Strike: subsection (c) in its entirety
Renumber: subsequent subsections

17. Page 8, lines 19 and 20.
Following: "tasks" on line 19
Strike: remainder of line 19 through "technician" on line 20
Insert: "delegated by the pharmacist"

18. Page 8, line 25 through page 9, line 2.
Strike: subsection (e) in its entirety
Renumber: subsequent subsection

19. Page 9, line 6.
Following: "delegated"
Strike: "to a pharmacy technician"

20. Page 9, line 10.
Following: "the"
Strike: "pharmacy technician"
Insert: "person to whom the authority is delegated"

21. Page 9, line 12.
Following: "technician"
Insert: "or auxiliary"

22. Page 9, lines 18 and 19.
Following: "plan" on line 18
Strike: remainder of line 18 through "pharmacist" on line 19

Ex. 3
3/6/91
HB 118

23. Page 10, line 3.
Following: "technician"
Insert: "or auxiliary"

24. Page 10, line 7.
Following: "through"
Strike: "7"
Insert: "5"

25. Page 10, line 11.
Following: "through"
Strike: "7"
Insert: "5"

26. Page 10, line 18.
Following: "through"
Strike: "7"
Insert: "5"

27. Page 10, line 23 through page 11, line 12.
Strike: section 5 in its entirety
Renumber: subsequent sections

28. Page 11, line 15.
Following: "pharmacist"
Strike: "who"

29. Page 11, line 16.
Following: "technician"
Insert: "or auxiliary"

30. Page 11, line 21.
Following: "a"
Strike: "pharmacy technician"

31. Page 12, line 3.
Following: "through"
Strike: "7"
Insert: "5"

32. Page 12, lines 4 and 5.
Following: "plan" on line 4
Strike: remainder of line 4 through "(section 5)" on line 5

33. Page 12, line 11.
Strike: "7"
Insert: "5"

34. Page 12, lines 12 through 16.
Strike: section 7 in its entirety
Renumber: subsequent sections

35. Page 13, line 3.
Following: "through"
Strike: "7"
Insert: "5"

36. Page 13, line 12.
Following: "through"
Strike: "7"
Insert: "5"

37. Page 13, line 15.
Following: "through"
Strike: "7"
Insert: "5"

38. Page 13, line 17.
Strike: "9"
Insert: "7"

39. Page 13, line 18.
Following: "through"
Strike: "8"
Insert: "6"

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH, WELFARE & SAFETY

Date 03/06/91 H Bill No. 118 Time 3:44 p.m.

NAME	YES	NO
SENATOR BURNETT	X	
SENATOR FRANKLIN	X	
SENATOR HAGER	X	
SENATOR JACOBSON	X	
SENATOR PIPINICH	X	
SENATOR RYE	X	
SENATOR TOWE	X	
SENATOR ECK	X	

Secretary Chairman

Motion: Senator Towe moved adoption of the amendments denoted in Exhibit #2. There being no objection the motion carried.

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH, WELFARE & SAFETY

Date 03/06/91 H Bill No. 118 Time 3:50p.m.

NAME	YES	NO
SENATOR BURNETT	X	
SENATOR FRANKLIN		X
SENATOR HAGER	X	
SENATORJACOBSON	X	
SENATOR PIPINICH	X	
SENATOR RYE	X	
SENATOR TOWE	X	
SENATOR ECK	X	

Secretary Chairman

Motion: Senator Towe moved adoption of the amendments in Exhibit #3. There being 1 nay by Senator Franklin and 7 ayes the motion carried..

1987

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH, WELFARE & SAFETY

Date 3/6/91 H Bill No. 118 Time 3:55 p.m.

NAME	YES	NO
SENATOR BURNETT	X	
SENATOR FRANKLIN	X	
SENATOR HAGER	X	
SENATORJACOBSON	X	
SENATOR PIPINICH	X	
SENATOR RYE	X	
SENATOR TOWE	X	
SENATOR ECK	X	

Secretary Chairman

Motion: Senator Pipinich moved to concur in HB 118 as Amended. There being no objection the motion carried.

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